



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,866	04/16/2001	Heinz Willebrand	69971	5585

22242 7590 08/03/2004

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

PHAN, HANH

ART UNIT	PAPER NUMBER
----------	--------------

2633

DATE MAILED: 08/03/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,866

Applicant(s)

WILLEBRAND, HEINZ

Examiner

Hanh Phan

Art Unit

2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2001.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,8-17,19,20 and 22-36 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 13,14 and 27-30 is/are allowed.
6) ☒ Claim(s) 1-3,5,6,8-12,15-17,19,20,22-26 and 31-36 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed 05/03/2004.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5, 6, 8-12, 15-17, 19-26 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izadpanah et al (Pub. No. US 2002/0122230 A1) in view of Wiedeman (US Patent No. 6,587,687) and further in view of Lau (Pub. No. US 2002/0152320 A1).

Regarding claims 1, 3, 5, 6, 10, 15-17, 19, 20, 23, 25, 35 and 36 referring to Figures 1a, 2, 3b and 3c, Izadpanah discloses a method of managing a free-space optical network, comprising the steps of:

directing network data traffic (104, 106)(Fig. 1a) over one or more free-space optical links in the free-space optical network ;

monitoring (108)(Fig. 1a) one or more environmental conditions in a vicinity of at least one of the one or more free-space optical links;

determining whether or not there is more than one alternate communication path available; and

routing the network data traffic through an alternate communication path in response to data obtained from the step of monitoring one or more environmental conditions in a vicinity of at least one of the one or more free-space optical links (see page 3, paragraphs [0037]-[0049]).

Izadpanah differs from claims 1, 3, 5, 6, 10, 15-17, 19, 20, 23, 25, 35 and 36 in that he fails to teach determining whether or not there is more than one alternate communication path available and routing the network data through a non-wireless alternate communication path. However, Wiedeman in US Patent No. 6,587,687 teaches determining whether or not there is more than one alternate communication path available (see Figs. 3, 4, 7, 12 and 13, col. 8, lines 6-30, col. 10, lines 18-63, col. 12, lines 18-67 and col. 13, lines 1-67) and Lau in Pub. No. US 2002/0152320 A1 teaches routing the network data through a non-wireless alternate communication path (see page 4, paragraph [0046] and see abstract section). Therefore, it would have been obvious to one having skill in the art the time the invention was made to incorporate the determining whether or not there is more than one alternate communication path available and routing the network data through a non-wireless alternate communication path as taught of Wiedeman and Lau in the system of Izadpanah. One skill in the art would have been motivated to do this since Wiedeman suggests in column col. 8, lines 6-30, col. 10, lines 18-63, col. 12, lines 18-67 and Lau suggests in page 4, paragraph [0046] and abstract section that using such determining whether or not there is more than one alternate communication path available and routing the network data through a non-wireless alternate communication path have advantage of allowing providing a

communication link redundancy when the primary network link failed and increasing the communication reliability.

Regarding claims 2 and 24, the combination of Izadpanah and Wiedeman teaches wherein the alternate communication path comprises a communication path that is not adversely affected by the one or more environmental conditions (Fig. 1 a of Izadpanah and Figs. 3 and 4 of Wiedeman).

Regarding claims 8, 22 and 26, the combination of Izadpanah and Wiedeman teaches rerouting the network data traffic over the one or more free-space optical links in the free-space optical network in response to additional data obtained from monitoring one or more environmental conditions in a vicinity of at least one of the one or more free-space optical links (see page 3 of Izadpanah, paragraphs [0037]-[0049] and Figs. 3, 4, 7, 12 and 13 of Wiedeman, col. 8, lines 6-30, col. 10, lines 18-63, col. 12, lines 18-67 and col. 13, lines 1-67).

Regarding claims 9, 11 and 12, the combination of Izadpanah and Wiedeman teaches collecting data indicative of at least one of the one or more environmental conditions with an instrument located in the vicinity of the at least one of the one or more free-space optical links (see page 3 of Izadpanah, paragraphs [0037]-[0049] and Figs. 3, 4, 7, 12 and 13 of Wiedeman, col. 8, lines 6-30, col. 10, lines 18-63, col. 12, lines 18-67 and col. 13, lines 1-67).

Regarding claims 31-34, the combination of Izadpanah and Wiedeman teaches selecting the alternate communication path (Fig. 1 a of Izadpanah and Figs. 3 and 4 of Wiedeman).

Allowable Subject Matter

4. Claims 13, 14 and 27-30 are allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 1-3, 5, 6, 8-17, 19, 20 and 22-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (703)306-5840.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (703)305-4729. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

A handwritten signature in cursive script, appearing to read 'Hanh Phan', is written over a horizontal line.

Hanh Phan

07/22/2004